



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 24, 2014

Ms. Lynn Rossi Scott  
Counsel for Alvord Independent School District  
Brackett & Ellis, P.C.  
100 Main Street  
Fort Worth, Texas 76102-3090

OR2014-12892

Dear Ms. Scott:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 530279.

The Alvord Independent School District (the "district") received a request for five categories of information pertaining to a named former school board member, including a video recording taken by the specified former school board member at a specified meeting. You indicate you have released information responsive to four categories of the request, but claim the submitted information is not subject to the Act. We have considered your argument and reviewed the submitted information.

The Act is applicable only to "public information." *See* Gov't Code § 552.021. Section 552.002 of the Government Code provides in pertinent part as follows:

(a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

(a-1) Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

*Id.* § 552.002(a), (a-1), (a-2). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess, if the information is collected, assembled, or maintained for the governmental body, and the governmental body owns the information or has a right of access to it. Gov't Code § 552.002(a)(2); *see* Open Records Decision No. 462 at 4 (1987). Consequently, the characterization of information as "public information" under the Act is not dependent on whether the requested records are in the possession of an individual or whether a governmental body has a particular policy or procedure that establishes a governmental body's access to the information. *See* Open Records Decision No. 635 at 3-4 (1995) (finding that information does not fall outside definition of "public information" in Act merely because individual member of governmental body possesses information rather than governmental body as whole); *see also* Open Records Decision No. 425 (1985) (concluding, among other things, that information sent to individual school trustees' homes was public information because it related to official business of governmental body) (overruled on other grounds by Open Records Decision No. 439 (1986)). Therefore, the fact the district did not possess the information at issue does not take the information outside the scope of the Act. *See id.* Furthermore, this office has found that information in a public official's personal

records may be subject to the Act where the public official uses the personal records in conducting public business. *Cf.* ORD 635 at 6-7 (appointment calendar owned by public official or employee is subject to Act when it is maintained by another public employee and used for public business). We note the Act's definition of "public information" does not require a public employee or official to create the information at the direction of the governmental body. *See* Gov't Code § 552.002. Accordingly, the mere fact that a public employee or official generates business-related information using personal resources does not take the information outside the scope of the Act.

You inform us the specified school board member who made the video recording did so on her personal video camera for personal reasons. However, you indicate the specified school board member generated the recording at an open school board meeting in which she was acting as a school board member. Furthermore, you indicate her reason for making such a recording was, in part, to defend her reputation as a school board member against alleged slanders and erroneous reporting made to discredit her in that capacity. Although you state the specified school board member made the recording for purely personal reasons, upon review, we find she created the recording while acting in her official capacity as a school board member in connection with the transaction of official business of the district, and the information pertains to the official business of the district. Accordingly, the information at issue constitutes public information under the Act. As you raise no exceptions to disclosure under the Act, the video recording at issue must be released at this time.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke  
Assistant Attorney General  
Open Records Division

JB/som

Ref: ID# 530279

Enc. Submitted documents

c: Requestor  
(w/o enclosures)